

USDC SDNY DOCUMENT ELECTRONICALLY FILED DOC #: DATE FILED: 1/3/2012
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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

-v.-

DAVID EDUARDO HELMUT MURCIA GUZMAN,  
Defendant.

STIPULATION AND ORDER FOR  
RELEASE OF PROPERTY TO  
DEUTSCHE BANK

S1 09 Cr. 110 (WHP)

*Application granted.*

DEUTSCHE BANK,

Petitioner.

**SO ORDERED:**

*William H. Pauley III*  
**WILLIAM H. PAULEY III U.S.D.J.**

WHEREAS, on March 17, 2009, DAVID EDUARDO HELMUT MURCIA GUZMAN (the "defendant"), was charged in a one-count Superseding Indictment, S1 09 Cr. 110 (WHP) (the "Indictment"), with conspiring to commit money laundering, in violation of Title 18, United States Code, Section 1956;

WHEREAS, the Indictment included a forfeiture allegation seeking, pursuant to Title 18, United States Code, Section 982, all property, real and personal, involved in the money laundering offense and all property traceable to such property, including but not limited to the following:

a. At least approximately millions of dollars in United States currency, in that such sum in aggregate is property which was involved in the money laundering offense or is traceable to such property;

b. The real property located at 175 SW 7<sup>th</sup> Street, #1810, Miami, Florida 33130;

c. The real property located at 175 SW 7<sup>th</sup> Street, #1811, Miami, Florida 33130;

d. The real property located at 175 SW 7<sup>th</sup> Street, #2008, Miami, Florida 33130;

e. The real property located at 455 5<sup>th</sup> Avenue, Half Moon Bay, California 94019;

f. The real property located at 90 Alton Road, #601, Miami, Florida 33139;

g. The real property located at 20201 E. Country Club Drive, #902, Aventura, Florida 33180;

h. The real property located at 951 Brickell Avenue, #1906, Miami, Florida 33131;

i. The real property located at 951 Brickell Avenue, #2006, Miami, Florida 33131;

j. The real property located at 951 Brickell Avenue, #2304, Miami, Florida 33131; and

k. The real property located at 880 Biscayne Boulevard, Unit 2507, Miami, Florida 33132;

WHEREAS, on or about November 23, 2010, the defendant pled guilty to the Indictment pursuant to a plea agreement with the Government;

WHEREAS, under the terms of the plea agreement, the defendant admitted the forfeiture allegation and agreed to forfeit to the United States, pursuant to Title 18, United States Code, Section 982: (i) a sum of money equal to \$7,000,000 in United States currency, representing all property, real and personal, involved in the money laundering offense and all property traceable to such property; and (ii) all right, title and interest in the following property:

- a. The real property located at 175 SW 7<sup>th</sup> Street, #1810, Miami, Florida 33130;
- b. The real property located at 175 SW 7<sup>th</sup> Street, #1811, Miami, Florida 33130;
- c. The real property located at 175 SW 7<sup>th</sup> Street, #2008, Miami, Florida 33130;
- d. The real property located at 455 5<sup>th</sup> Avenue, Half Moon Bay, California 94019;
- e. The real property located at 90 Alton Road, #601, Miami, Florida 33139 ("90 Alton Road");
- f. The real property located at 20201 E. Country Club Drive, #902, Aventura, Florida 33180;
- g. The real property located at 951 Brickell Avenue, #1906, Miami, Florida 33131;
- h. The real property located at 951 Brickell Avenue, #2006, Miami, Florida 33131;

i. The real property located at 951 Brickell Avenue, #2304, Miami, Florida 33131; and

j. The real property located at 880 Biscayne Boulevard, Unit 2507, Miami, Florida 33132;  
(collectively, the "Specific Properties");

WHEREAS, on or about November 29, 2010, the Court entered a Consent Order of Forfeiture as to Specific Properties (the "Consent Order of Forfeiture"), which (1) imposed a money judgment against the defendant, in the amount of \$7,000,000 in United States currency, representing all property, real and personal, involved in the money laundering offense and all property traceable to such property, and (2) ordered the forfeiture to the United States of all of his right, title and interest in the Specific Properties;

WHEREAS, the Consent Order of Forfeiture directed the United States to publish, for at least thirty consecutive days, notice of the Consent Order of Forfeiture, of the United States' intent to dispose the Specific Properties and the requirement that any person asserting a legal interest in the and to file a petition with the Court in accordance with the requirements of Title 21, United States Code, Section 853(n)(2) and (3). The Consent Order of Forfeiture further stated that the United States could, to the extent practicable, provide direct written notice to any person known to have an alleged interest in the Specific

Properties and as a substitute for published notice as to those persons so notified;

WHEREAS, notice of the Consent Order of Forfeiture and the intent of the United States to dispose of the Subject Property was published on [www.forfeiture.gov](http://www.forfeiture.gov), the official U.S. government internet site, beginning on February 9, 2011 and for thirty consecutive days thereafter, pursuant to Rule G(4)(a)(iv)(C) of the Supplemental Rules for Admiralty and Maritime Claims and Asset Forfeiture Actions, and proof of publication was filed on July 13, 2011;

WHEREAS, on or about January 13, 2011, notice of the Consent Order of Forfeiture was mailed by Certified Mail Return Receipt Requested to:

- a. Lisa Newsome  
455 5<sup>th</sup> Avenue  
Half Moon Bay, California 94019;
- b. Santiago Baranchuk  
455 5<sup>th</sup> Avenue  
Half Moon Bay, California 94019;
- c. USAA Federal Savings Bank  
10750 McDermott Freeway  
San Antonio, TX 78288;
- d. Platino Holding LLC  
175 SW 7<sup>th</sup> Street, #2008  
Miami, Florida 33130;
- e. Life Style Media Group, LLC  
880 Biscayne Boulevard, Unit 2507  
Miami, Florida 33132;
- f. Life Style Media Group, LLC  
951 Brickell Avenue, #2304

- Miami, Florida 33131;
- g. Life Style Media Group, LLC  
951 Brickell Avenue, #2006  
Miami, Florida 33131;
  - h. Life Style Media Group, LLC  
951 Brickell Avenue, #1906  
Miami, Florida 33131;
  - i. Life Style Media Group, LLC  
2121 Ponce de Leon Boulevard, Suite 1050  
Coral Gables, Florida 33160;
  - j. Life Style Media Group, LLC  
20201 E. Country Club Drive, #902  
Aventura, Florida 33180;
  - k. Platino Holding LLC  
175 SW 7<sup>th</sup> Street, #1811  
Miami, Florida 33130;
  - l. Platino Holding LLC  
2121 Ponce de Leon Boulevard, Suite 1050  
Coral Gables, Florida 33134;
  - m. Platino Holding LLC  
175 SW 7<sup>th</sup> Street, #1810  
Miami, Florida 33130;
  - n. Deutsche Bank  
60 Wall Street  
New York, New York 10005; and
  - o. Lisa Newsome  
90 Alton Road, Unit 601  
Miami Beach, Florida 33139;

WHEREAS, these are the only persons known by the Government to have a potential interest in the Specific Properties;

WHEREAS, on or about February 17, 2011, Deutsche Bank ("Petitioner") filed a petition (the "Petition") asserting an interest in 90 Alton Road;

WHEREAS, Petitioner represents that Petitioner has a right, title and interest in and to 90 Alton Road, by virtue of a first priority mortgage lien executed on or about July 6, 2006 by Lisa Newsome in favor of Mortgage Electronic Registration Systems, Inc. as nominee for Master Financial, Inc., and recorded on or about August 24, 2006 in the Dade County, Florida Real Estate records at Deed Book 24850, Pages 1885-1914 (the "Mortgage");

WHEREAS, the Mortgage evidences a note in the original principal amount of Six Hundred Sixty-Four Thousand, Fifty and 00/100 Dollars (\$664,050.00) (the "Note") and constitutes a first priority security interest or mortgage on 90 Alton Road and the buildings and improvements situated thereon;

WHEREAS, as of February 16, 2011, the remaining amount of the indebtedness secured by the Mortgage is Six Hundred Fifty-Eight Thousand, Four Hundred Fifty-Three and 32/100 Dollars (\$658,453.32), plus accrued interest, escrow advances, attorney fees and costs relating to this action;

WHEREAS, the Note and the Mortgage were last transferred to Petitioner by those Assignments of Mortgage



recorded in the Dade County, Florida Real Estate records at Deed Book 26331, Page 496 and Deed Book 27063, Page 264-265;

IT IS HEREBY STIPULATED, ORDERED AND AGREED, by and between the United States Attorney's Office for the Southern District of New York, Preet Bharara, United States Attorney by and through Assistant United States Attorney Michael D. Lockard, and Petitioner, and their attorney, Mark L. Cortegiano, Esq., that:

1. The United States shall release 90 Alton Road to Petitioner.

2. The foregoing release to the Petitioner shall be in full settlement and satisfaction of all claims and petitions by Petitioner to 90 Alton Road.

3. Petitioner is hereby barred from asserting, or assisting others in asserting, any claim against the United States (including but not limited to the Department of Justice ("DOJ"), the United States Attorney's Office for the Southern District of New York ("SDNY-USAO"), and the Drug Enforcement Administration ("DEA")), and any agents and employees of the United States, in connection with or arising out of the seizure, restraint, and/or constructive possession of 90 Alton Road, including, but not limited to, any claim that there was no probable cause to seize 90 Alton Road, that the Petitioner is a



prevailing party, or that the Petitioner is entitled to attorney's fees or any award of interest.

4. Petition represents that it has a valid mortgage on 90 Alton Road and agrees to hold harmless the United States (including but not limited to the DOJ, the SDNY-USAO, and the DEA), and any agents and employees of the United States, from any and all claims in connection with or arising out of the seizure, restraint, and/or constructive possession of 90 Alton Road, including but not limited to any third-party claims of ownership of 90 Alton Road.

5. Petitioner hereby withdraws its Petition asserting an interest in 90 Alton Road. Upon the Court's endorsement of this Stipulation and Order, said petition is hereby deemed dismissed with prejudice, without costs and/or attorney's fees to either party.

6. This Stipulation may be executed in counterparts, each of which shall be deemed an original, and all of which, when taken together, shall be deemed the complete Stipulation and Order. Fax or PDF copies shall be treated as originals.

7. The individual(s) signing this Stipulation and Order on behalf of the Petitioner represent and warrant that they are authorized by Petitioner to execute this Stipulation and Order.

8. The Court shall have exclusive jurisdiction over the interpretation and enforcement of this Stipulation and Order.

9. This Stipulation and Order constitutes the complete agreement between the parties hereto, and may not be amended except by written consent thereof.

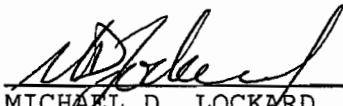
10. The Clerk of the Court shall forward four certified copies of this Order to Assistant United States Attorney Michael D. Lockard, One St. Andrew's Plaza, New York, New York 10007.

Agreed and consented to:

PREET BHARARA

United States Attorney for the  
Southern District of New York  
Attorney for Plaintiff

By:

  
MICHAEL D. LOCKARD  
Assistant United States Attorney  
One St. Andrew's Plaza  
New York, New York 10007  
Tel. (212) 637-2193  
Fax (212) 637-0421  
[michael.lockard@usdoj.gov](mailto:michael.lockard@usdoj.gov)

August 10, 2011  
DATE

DEUTSCHE BANK  
Petitioner

By:

DEUTSCHE BANK

DATE

[ADDITIONAL SIGNATURES ON FOLLOWING PAGE]

8. The Court shall have exclusive jurisdiction over the interpretation and enforcement of this Stipulation and Order.

9. This Stipulation and Order constitutes the complete agreement between the parties hereto and may not be amended except by written consent thereof.

10. The Clerk of the Court shall forward four certified copies of this Order to Assistant United States Attorney Michael D. Lockard, One St. Andrew's Plaza, New York, New York 10007.

Agreed and consented to:

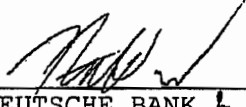
PREET BHARARA

United States Attorney for the  
Southern District of New York  
Attorney for Plaintiff

By: MICHAEL D. LOCKARD  
Assistant United States Attorney  
One St. Andrew's Plaza  
New York, New York 10007  
Tel. (212) 637-2193  
Fax (212) 637-0421  
michael.lockard@usdoj.gov

DATE

DEUTSCHE BANK  
Petitioner

By:  OLS for Deutsche  
DEUTSCHE BANK by Debra L. Lerman, LLC  
as attorney-in-fact

8/8/11  
DATE

[ADDITIONAL SIGNATURES ON FOLLOWING PAGE]

By: 

MARK L. CORTEGIANO, ESQ.  
Attorney for Petitioner  
65-12 69<sup>th</sup> Place  
Middle Village, New York 11379  
Tel. (718) 894-9500  
Fax (718) 326-3781  
marklcortegiano@verizon.net

  
DATE

SO ORDERED:

HONORABLE WILLIAM H. PAULEY III  
UNITED STATES DISTRICT JUDGE

DATE

By:

\_\_\_\_\_  
MARK L. CORTEGIANO, ESQ.  
Attorney for Petitioner  
65-12 69<sup>th</sup> Place  
Middle Village, New York 11379  
Tel. (718) 894-9500  
Fax (718) 326-3781  
marklcortegiano@verizon.net

\_\_\_\_\_  
DATE

SO ORDERED:

\_\_\_\_\_  
HONORABLE WILLIAM H. PAULEY III  
UNITED STATES DISTRICT JUDGE

\_\_\_\_\_  
DATE